COMPTROLLER OF INCOME TAX v. CHENG POH SENG.

[Orig. Civ. Juris. (Murray-Aynsley, C.J.) March 19, 1952]

[Singapore — Special Case No. 5 of 1951]

Income Tax Ordinance, 1947, s. 59(1) — Furnishing return of income by post — Sufficient compliance.

Section 59(1) of the Income Tax Ordinance, 1947 empowers the Comptroller of Income Tax to give notice to any person to furnish a return of income. In this case a tax payer completed the form of return and sent it through the post in the envelope provided with the form.

Held, that such posting was a sufficient compliance with the section.

INCOME TAX CASE.

L. Rayner (Crown Counsel) for the Comptroller of Income Tax.

Murray-Aynsley, C.J. : — In this case the question was whether proof of posting was a sufficient compliance with the requiring of a return by the Comptroller of Income Tax. Counsel for the Comptroller agreed with the contention of the taxpayer and I decided accordingly.

Order accordingly.

GOVERNMENT OF THE FEDERATION OF MALAYA v. WONG HOI ONN.

[Orig. Civ. Juris. (Taylor, J.) March 20, 1952]

[Kuala Lumpur — Civil Suit No. 16 of 1951]

Gaming — Betting and Sweepstakes Duties Ordinance — Claim for duty payment — Whether officials of illegal association personally liable — Claim out of assets.

The defendant, as President of an association subsequently declared illegal and wound up, was found to be the only person managing and controlling the association. He was sued for unpaid duty on sweepstakes promoted in the name of the association.

Held, that the President in this case was also either the Secretary or a similar official.

Held further, that the Betting and Sweepstakes Duties Ordinance is a charging statute and must be strictly construed; the duty is charged on the amount subscribed from ticket money and the promoter, secretary or similar official cannot be personally liable in debt for unpaid duty. Where the association has been wound up such unpaid duty may be claimed out of assets in the hands of the Official Assignee who wound up the association.

ACTION.

A. M. Webb (Federal Counsel) for the plaintiffs.

F. G. Charlesworth for the defendant.

The facts and arguments appear sufficiently from the judgment.

Cur. Adv. Vult.

Taylor, J. : — In this action the Federal Government sued Wong Hoi Onn for $64,000 odd, being the duty under the Betting and Sweepstakes Duties Ordinance, 1948, on five sweepstakes conducted during 1950 in the name of the Selangor Health and Strength Association.

The facts shortly are that the Association was founded many years ago as an athletic club. It was revived after the war and at the material time had a small club house in the suburbs of Kuala Lumpur with a boxing ring, equipment for weight-lifting and two badminton courts. The defendant was the President. According to the rules, the Association was to be managed by a Committee consisting of the President, the Secretary, the Treasurer and eight elected members. It was, however, in fact directed and managed almost entirely by the President alone. There was a Nominal Secretary but he was in fact a paid full-time clerk. The Committee did not function. The rules provided for active members who paid an entrance fee and a subscription of $2 a month, and for associate members who paid $1 a year but no entrance fee. The total membership is stated to have been about 50,000 and the club had an office in the town which at one time was staffed by forty clerks. Obviously, such an Association could not have even 1,000 members who actually took part in boxing. The truth of the matter is that a few dozen members took part in the boxing and weight-lifting and possibly a few score of their friends came to watch and play a little badminton. The Association was really two associations in one — a small but genuine athletic club with a very large sweepstake club operating in conjunction, under the same name, and the whole concern managed and controlled by one man, the President.

In 1950 some difficulties arose; some of the officers were prosecuted; the proceedings extended over some months but ended in acquittal of all the accused, meantime, payment of duty on the sweepstakes had fallen into arrears and finally the Association was dissolved under statutory powers and liquidated by the Official Assignee; after payment of sundry creditors and costs he has a disposable surplus of about $6,000 only. The Government appear to be in the exasperating position in which banks and other large concerns